

**UNITED STATES BANKRUPTCY COURT MIDDLE
DISTRICT OF NORTH CAROLINA
DURHAM DIVISION**

In re:

Yvonne Kinton breeze,

Bankruptcy Case No.: 08-80108

Social Security No. xxx-xx-3350

Mailing Address: 4018 Sudbury Road, , Durham, NC 27704-

Debtor.

Yvonne Kinton breeze,

Plaintiff, A.P. No.: 09-9052

Citifinancial Mortgage Company LLC,

Defendant.

JUDGMENT BY DEFAULT

DEFAULT HAS BEEN ENTERED against the Defendant **Citifinancial Mortgage Company LLC** by the Clerk of Court in this action to value collateral and to determine the secured status of said claim held by the Defendant. Thereafter, on application of the Plaintiff, judgment is entered against said Defendant in favor of the Plaintiff as follows:

1. This matter is a core proceeding pursuant to 28 U.S.C. § 157, and that the court has jurisdiction pursuant to 28 U.S.C. §§ 151, 157 and 1334;
2. The Defendant in this proceeding, and all other parties in interest, were duly served with the Complaint, that the Defendant has failed to answer the Complaint or otherwise defend this adversary proceeding as provided by the Bankruptcy Rules, that the Defendant is not in the military and is neither infant in age nor incompetent, and that the Plaintiff is entitled to judgment by default;
3. This action was properly commenced, in accordance with 11 U.S.C. § 506 of the Bankruptcy Code and Section 7001 of the Bankruptcy Rules, and that there is just cause to grant the relief requested, as it would appear that the claim of Citifinancial Mortgage Company LLC, secured by a Deed of Trust (recorded on November 7, 2006 in Book 5411 at Page 645, Durham County Registry of Deeds), is an unsecured claim, and therefore, in accordance with 11 U.S.C. § 506(a), that the lien imposed by said Deed of Trust is void.

NOW THEREFORE, IT IS THEREFORE ADJUDGED, ORDERED AND DECREED that pursuant to Bankruptcy Rule 7055, the Court hereby orders:

1. That a default judgment be entered against the Defendant;
2. Accordingly, the claim held by Citifinancial Mortgage Company LLC is deemed to be an unsecured claim, to be treated as a general unsecured claim in the Plaintiff's Chapter 13 plan;
3. That Citifinancial Mortgage Company LLC shall cancel, pursuant to N.C.G.S. § 45-36.9, said Deed of

Trust within thirty (30) days of the entry of the Plaintiff's discharge pursuant to 11 U.S.C. § 1328(a);

4. That upon the granting of the Plaintiff's discharge and in accordance with the requirements of N.C.G.S. §47-29, the Register of Deeds for the County of Durham, North Carolina, may record in the office of said Register of Deeds a copy of this order, together with a copy of the discharge order issued in this bankruptcy case upon being presented with certified copies thereof.
5. The attorney for the Plaintiff is allowed the presumptive non-base fee for obtaining a loan modification on behalf of the Plaintiff in the amount of \$350.00, to be paid through the Plaintiff's Chapter 13 plan as an administrative priority claim.
6. This Court retains jurisdiction regarding this judgment.

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Citifinancial Mortgage Company LLC,

Defendant.

SERVICE LIST FOR JUDGMENT BY DEFAULT

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Chapter 13 Trustee
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Citifinancial Mortgage Company LLC
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